

CITY COUNCIL OF THE CITY OF NOVATO

ORIGINAL

ORDINANCE NO. 1673

AN ORDINANCE OF THE CITY OF NOVATO
AMENDING SECTION 7-8 OF CHAPTER VII OF THE
NOVATO MUNICIPAL CODE RELATING TO
TOBACCO RETAILERS

The City Council of the City of Novato does hereby ordain as follows:

SECTION I. The following definitions of the terms “Characterizing Flavor” and “Flavored Tobacco Product” are hereby added to Section 7-8.2 of the Novato Municipal Code, which shall be renumbered to include such definitions:

“Characterizing Flavor” means a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provisions of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

“Flavored Tobacco Product” means any tobacco product that contains a constituent that imparts a characterizing flavor.

SECTION II. Subsection 7-8.3 (h) of the Novato Municipal Code is hereby amended to read as follows:

(h) Flavored Tobacco Products. No tobacco retailer shall sell or offer for sale a Flavored Tobacco Product. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or its agents or employees has made a public statement or claim that the Tobacco Product has or produces a characterizing flavor including, but not limited to, text, color, or images on the product’s labeling or packaging that are used to expressly or impliedly communicate that a Tobacco Product has a characterizing flavor. ~~tobacco product containing, as a constituent or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product unless:~~

- ~~1. The tobacco product consists of a package of cigars containing at least five cigars or more; or~~

- ~~2. The tobacco product consists of a single cigar for which the retail price exceeds five dollars (\$5.00); or~~
- ~~3. The tobacco product consists of pipe tobacco; or~~
- ~~4. The tobacco product consists of a package of chewing tobacco or snuff containing at least five units or more.~~

SECTION III. Subsection 7-8.6 (a) of the Novato Municipal Code is hereby amended to read as follows:

(a) **RENEWAL OF LICENSE.** A Tobacco Retailer's license is invalid if the appropriate license fee has not been timely paid in full or if the term of the license has expired. The term of a Tobacco Retailer license is one calendar year. ~~Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than January 1 of each year and annually thereafter. To renew a Tobacco Retailer's license, a Tobacco Retailer shall apply for the renewal of their Tobacco Retailer's license at the same time as application is made for the Tobacco Retailer's annual business license renewal under Section 8-1 of this Code.~~ To renew a Tobacco Retailer's license, a Tobacco Retailer shall apply for the renewal of their Tobacco Retailer's license at the same time as application is made for the Tobacco Retailer's annual business license renewal under Section 8-1 of this Code.

SECTION IV. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Novato hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION V. PUBLICATION AND EFFECTIVE DATE

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance; and

This Ordinance shall become effective thirty (30) days from and after the date of its passage.

SECTION VI. CEQA FINDINGS.

This ordinance is exempt from the California Environmental Quality Act (“CEQA”) under 14 Cal. Code Regs. Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption will have a significant adverse effect on the environment. It is also categorically exempt under 14 Cal. Code Regs. Section 15308 because the ordinance constitutes a regulatory activity whose purpose is the protection of the environment and to reduce the adverse health effects of air pollutants caused by smoking.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on September 28, 2021, and was passed and adopted at a regular meeting of the Novato City Council on the 26th day of October 2021, by the following vote, to wit:

AYES: Councilmembers Athas, Lucan, Wernick, Eklund
NOES: Councilmembers
ABSTAIN: Councilmembers
ABSENT: Councilmembers
VACANT: District 5



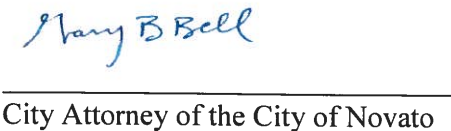
Mayor of the City of Novato

Attest:



City Clerk of the City of Novato

Approved as to form:



City Attorney of the City of Novato